

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

**MEMORANDUM**

**December 9, 2017**

**To: Subcommittee on Oversight and Investigations Democratic Members and Staff**

**Fr: Committee on Energy and Commerce Democratic Staff**

**Re: Hearing on “Examining Concerns of Patient Brokering and Addiction Treatment Fraud.”**

On **Tuesday, December 12, 2017, at 10:15 a.m. in room 2322 of the Rayburn House Office Building**, the Subcommittee on Oversight and Investigations will hold a hearing entitled “Examining Concerns of Patient Brokering and Addiction Treatment Fraud.” The hearing will focus on reports of fraudulent addiction treatment schemes targeting individuals with substance use disorders and their families.

**I. PATIENT BROKERING SCHEMES EXPLOIT INDIVIDUALS SEEKING ADDICTION TREATMENT**

Addiction treatment is a vital part of recovery for individuals with substance use disorders. “Sober homes,” sometimes referred to as recovery residences, are designed to provide a safe and healthy environment in which patients can live while undergoing treatment.<sup>1</sup> In so-called “patient brokering” arrangements, however, bad actors exploit both addiction treatment and sober living arrangements, and push individuals with substance use disorders to undergo treatment at questionable outpatient facilities while living at sham sober homes. Patient brokers reportedly receive kickbacks from these bogus treatment centers and sober homes in exchange for steering patients into their schemes.<sup>2</sup>

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<sup>1</sup> Substance Abuse and Mental Health Services Administration, Recovery Homes Help People in Early Recovery ([www.samhsa.gov/homelessness-programs-resources/hpr-resources/recovery-homes-help-people](http://www.samhsa.gov/homelessness-programs-resources/hpr-resources/recovery-homes-help-people)).

<sup>2</sup> *The addict brokers: Middlemen profit as desperate patients are ‘treated like paychecks’*, STAT (May 28, 2017).

Perpetrators of these schemes make money by billing insurance providers for expensive, low-quality care and unnecessary laboratory testing.<sup>3</sup> For example, reports indicate that some sober homes and treatment facilities bill several times per week, per patient, for unnecessary out-of-network urine tests each of which can cost thousands of dollars.<sup>4</sup> Facilities also reportedly bill insurance companies for outpatient addiction treatment, which the facilities may or may not actually provide.

To entice patients to enter into particular treatment centers and sober homes, patient brokers offer incentives ranging from “scholarships” for treatment, free housing, discounted groceries, movie tickets, and even money for cigarettes.<sup>5</sup> There have also been instances of patient brokers relying on false advertising schemes to locate individuals with substance use disorders who are using the internet to search for drug treatment.<sup>6</sup> Patient brokers reportedly also assist patients in obtaining private insurance so that treatment providers can exploit that insurance.<sup>7</sup>

These sober home schemes can be devastating for patients and their loved ones, sometimes even resulting in patient overdose deaths.<sup>8</sup> Vulnerable patients receive little to no actual addiction treatment. In addition, at some sober homes, drugs are apparently readily available, and in the most egregious cases, sober home managers and fraudulent treatment providers reportedly supply patients with drugs to cause relapse and restart the scheme.<sup>9</sup>

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<sup>3</sup> *How some Southern California drug rehab centers exploit addiction*, The Orange County Register (May 30, 2017); *Florida’s Billion-Dollar Drug Treatment Industry is Plagued by Overdoses, Fraud*, NBC News (June 25, 2017).

<sup>4</sup> *Addiction treatment bonanza: How urine tests rake in millions*, The Palm Beach Post (Aug. 1, 2015).

<sup>5</sup> *The addict brokers: Middlemen profit as desperate patients are ‘treated like paychecks’*, STAT (May 28, 2017).

<sup>6</sup> For example, the Google listing for Caron Treatment Centers was hijacked, and the phone number for the treatment facility was swapped with the number for a call aggregator that redirected patients with substance use disorders to treatment providers who did not actually provide addiction treatment. In response to these incidents, Google has placed a temporary moratorium on selling advertising tied to a large number of rehab-related search terms. *See, e.g., Exclusive: Google is cracking down on sketchy rehab ads*, The Verge (Sept. 14, 2017).

<sup>7</sup> *Desperate for addiction treatment, patients are pawns in lucrative insurance fraud scheme*, STAT (July 7, 2017).

<sup>8</sup> *The addict brokers: Middlemen profit as desperate patients are ‘treated like paychecks’*, STAT (May 28, 2017); *Desperate for addiction treatment, patients are pawns in lucrative insurance fraud scheme*, STAT (July 7, 2017).

<sup>9</sup> *Florida’s Billion-Dollar Drug Treatment Industry is Plagued by Overdoses, Fraud*, NBC News (June 25, 2017).

## **II. LAW ENFORCEMENT AND REGULATORS FIND IT DIFFICULT TO ADDRESS SOBER HOME SCHEMES**

Experts have told the committee that both state law enforcement and health insurers find it difficult to target or prevent sober homes from participating in patient brokering schemes.<sup>10</sup> Sober homes are not regulated by state health departments, and as part of their schemes, some fraudulent sober home administrators have allegedly exploited the protections of the Fair Housing Act and Americans with Disabilities Act.<sup>11</sup> Further complicating the matter, these schemes are complex, they often fall under multiple jurisdictions, and regulatory loopholes or gray areas enable bad actors to take advantage of these arrangements.

As a result of some of these regulatory limitations, state legislatures and nonprofit organizations have developed voluntary certification programs to distinguish good actors from bad actors. For example, in Florida and Rhode Island, certification is required for a sober home or recovery residence to receive referrals from state programs.<sup>12</sup> Additionally, earlier this year, the Florida Legislature passed a Patient Brokering Act, which criminally prohibits any health care provider or facility from giving or receiving any form of remuneration for referrals, regardless of the source of payment for the service or product.<sup>13</sup> It is not yet clear how effective these new laws will be in targeting the problem.

## **III. PRIOR COMMITTEE ACTION ON PATIENT BROKERING**

On July 13, 2017, the Committee sent a bipartisan letter to the U.S. Department of Health and Human Services (HHS) requesting information and a briefing on the Department's efforts to respond to reports of patient brokering.<sup>14</sup> HHS responded to the Committee's inquiry on

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<sup>10</sup> House Committee on Energy and Commerce, Interview of Andrew Kessler on behalf of the International Certification and Reciprocity Consortium (Oct. 6, 2017); House Committee on Energy and Commerce, Interview of Pete Nielsen, Executive Director of the California Consortium of Addiction Programs and Professionals (Oct. 27, 2017).

<sup>11</sup> House Committee on Energy and Commerce, Interview of David M. Sheridan, President of the National Alliance for Recovery Residences (Aug. 9, 2017); Fair Housing Act, 42 U.S.C. § 3601-3619; Americans with Disabilities Act of 1990, 42 U.S.C. § 12101.

<sup>12</sup> House Committee on Energy and Commerce, Interview of David M. Sheridan, President of the National Alliance for Recovery Residences (Aug. 9, 2017).

<sup>13</sup> FLA. STAT. § 817.505.

<sup>14</sup> Letter from Rep. Greg Walden, Chairman, House Committee on Energy and Commerce et al., to Thomas E. Price, Secretary, U.S. Department of Health and Human Services (July 13, 2017).

September 12, 2017. In its response, HHS indicated that “there is a wide variability among states in terms of how they regulate residential treatment and sober living homes.”<sup>15</sup>

In light of HHS’s September 12 response, the Committee sent bipartisan letters to departments of six state governments on November 17, 2017, seeking additional information on how each is responding to reports of patient brokering.<sup>16</sup>

#### **IV. WITNESSES**

The following witnesses have been invited to testify:

**Mr. Dave Aronberg**

State Attorney, 15th Judicial Circuit of Florida

**Mr. Eric M. Gold**

Assistant Attorney General, Chief, Health Care Division, Office of the Massachusetts Attorney General

**Mr. Alan S. Johnson**

Chief Assistant State Attorney, 15th Judicial Circuit of Florida

**Mr. Pete Nielsen**

Executive Director, California Consortium of Addiction Programs and Professionals

**Mr. Douglas Tieman**

President and CEO, Caron Treatment Centers

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<sup>15</sup> Letter from Barbara Pisaro Clark, Acting Assistant Secretary for Legislation, U.S. Department of Health and Human Services, to Rep. Greg Walden, Chairman, House Committee on Energy and Commerce et al. (Sept. 12, 2017).

<sup>16</sup> *See, e.g.*, Letters from Rep. Greg Walden, Chairman, House Committee on Energy and Commerce et al., to Ms. Ute Gazioch, Director, Substance Abuse and Mental Health, Florida Department of Children and Families et al (Nov. 17, 2017).